

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Petitioner,

- against -

CITY OF NEW YORK and CYNTHIA  
BRANN, COMMISSIONER OF THE NEW  
YORK CITY DEPARTMENT OF  
CORRECTION,

Respondents.

**DECLARATION OF  
KIMBERLY M. JOYCE  
IN SUPPORT OF  
RESPONDENTS'  
MOTION TO DISMISS  
THE PETITION FOR  
MOOTNESS**

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20-MC-256 (EK)

**KIMBERLY M. JOYCE**, pursuant to 28 U.S.C. §1746 and subject to the penalty of perjury, declares that the following is true and correct:

1. I am a Senior Counsel in the office of James E. Johnson, Corporation Counsel of the City of New York, attorney for the Respondents City of New York and Cynthia Brann, Commissioner of the New York City Department of Correction ("Respondents"). As such, I am familiar with the facts and circumstances of this action. This declaration is submitted to put forth certain documents before the Court in support of Respondents' motion to dismiss the Petition to Enforce (ECF No. 1) for mootness.

2. On or about January 17, 2020 Respondent Brann was served with four ICE subpoenas, including No. ERO-ENF-NYC-202000005, for documents related to an individual named Romero Ramirez-Macias, annexed hereto as Exhibit A.

3. The subpoena requested: *"Documents sufficient to establish the following for Ramirez-Macias, Romero: Home Address, Employment Address, Country of Birth, Place of Birth, Age, Identification Documents (i.e. driver license number and state, foreign identification*

*card number and country, passport number and country), Bond Information to include the obligor name and address, Federal Bureau of Investigation Number, Emergency Contact address and phone number, including copies of all identification documents,” and “Documents that show the criminal charge relating to Ramirez-Macias, Romero where the arrest date was October 23, 2019, and the charge was Crim. Possession Controlled Substance-1<sup>st</sup>: Narcotic Drug 80ozs or More, under docket # CR-034068-19QN.”*

4. On January 31, 2020, Respondents wrote to Thomas Decker, New York Field Office Director for U.S. Immigration and Customs Enforcements Enforcement and Removal Options, and voiced serious concerns based on public statements of the current Presidential administration that the subpoenas were issued in bad faith, and seeking information and assurances that the subpoenas were in fact issued in good faith and for a legitimate investigative purpose. See City’s Letter dated January 31, 2020, annexed hereto as Exhibit B.

5. Subsequently, the United States Attorney’s Office decided to enforce two of the four subpoenas.

6. Instead of engaging in discussion or negotiation about the remaining subpoenas, the United States Attorney’s Office for the Eastern District of New York filed a motion to enforce the subpoena, and seeking an order to show cause. *See* ECF No. 1.

7. On February 4, 2020, this Court endorsed the Order to Show Cause, ordering that Respondents’ response to the petition be due by February 18, 2020, and petitioner’s reply, if any, due by February 25, 2020. *See* ECF No. 5.

8. On February 18, 2020, the City, while maintaining the concerns outlined in Exhibit B, reviewed the unique circumstances in this matter, and furnished responsive records and information that were within the City’s possession and control, in the interest of working with the U.S. Attorney’s Office to resolve this specific case, and without conceding any facts or legal arguments put forward in the Order to Show Cause, to Joseph A. Marutollo, Chief of Immigration Litigation, and Deputy Chief of the Civil Division with the United States Attorney’s

Office for the Eastern District of New York, by both email and mail. See City Letter dated February 18, 2020 to Mr. Marutollo, annexed hereto as Exhibit C.

Dated: New York, New York  
February 18, 2020

JAMES E. JOHNSON  
Corporation Counsel of the  
City of New York  
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By:

  
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Kimberly M. Joyce  
Senior Counsel

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**DECLARATION OF KIMBERLY M. JOYCE**

**JAMES E. JOHNSON**

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New York, N.Y. 10007-2601

Of Counsel: Kimberly M. Joyce  
Tel: (212) 356-2650

Due and timely service is hereby admitted.

New York, N.Y. . . . . '20

Attorney for .....